

# Notice of Allowability

Application No.

10/691,779

Examiner

Janis L. Dote

Applicant(s)

PICKERING ET AL.

Art Unit

1756

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/20/06.
2. ☒ The allowed claim(s) is/are 1,2,5,9-17,19-23,26,30-38,40-44,47,51-59 and 61-65.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on Oct. 20, 2006, has been entered.

2. The examiner acknowledges the amendments to claims 1, 20, 22, 41, 43, 62, and 64 set forth in the amendment filed on Sep. 8, 2006, which was entered upon the filing of the RCE. Claims 1, 2, 5, 9-17, 19-23, 26, 30-38, 40-44, 47, 51-59, and 61-65 are pending.

#### **EXAMINER'S AMENDMENT**

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Mr. Carl F. Ruoff (Reg. No. 34,241) on Nov. 8, 2006.

The application has been amended as follows:

In claim 1, at line 19, before the phrase "at least a minimum proportion by volume . . ." insert the phrase

-- wherein the discontinuous phase comprises one or both of: --.

In claim 22, at line 16, after the phrase "100 Kpoise" insert the word -- at --.

4. The examiner's amendment to claim 1 set forth in paragraph 3 above avoids a rejection under 35 U.S.C. 112, second paragraph, for lack of unambiguous antecedent basis for what component has "at least a minimum proportion by volume of the fusing surface layer" and "at least a minimum proportion of weight of the fluoroelastomer continuous phase."

The examiner's amendment to claim 22 corrects an obvious typographic error that occurred in the reproduction of claim 22 in the "List of claims" filed on Sep. 8, 2006.

5. The examiner notes that in view of the disclosure in the instant specification in paragraph 0175 at page 45, line 30, to

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page 46, line 8, the term "logarithm" in the phrase "logarithm of the modulus" recited in instant claims 1, 2, 22, 23, 43, 44, 64, and 65 refers to a logarithm based on 10, i.e.,  $\log_{10}$ . See, for example, disclosure at page 45, lines 30-33, where the instant specification states the "continuous phase modulus of  $8 \times 10^6$  Pa may be expressed as the logarithm value of about 6.9."

6. As previously noted by the examiner in the office action mailed on Jul. 20, 2006, paragraph 3, the instant specification in paragraph 036 defines the term "modulus" recited in the instant claims as the "tensile modulus of elasticity" determined by a "dynamic mechanical analysis, at a frequency equal to the frequency of the fuser member."

#### REASONS FOR ALLOWANCE

7. The following is an examiner's statement of reasons for allowance:

The rejection of claims 20, 41, and 62 under 35 U.S.C. 112, second paragraph, set forth in the office action mailed on Jul. 20, 2006, paragraph 5, has been withdrawn in response to the amendments to claims 20, 41, and 62 filed on Sep. 8, 2006, which were entered upon the filing of the RCE.

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The rejection of claims 1, 2, 5, 9-17, 19-23, 26, 30-38, 40-44, 47, 51-59, and 61-65 under 35 U.S.C. 103(a) over US 5,395,723 (Mahabadi) combined with US 6,586,100 B1 (Pickering'100), as evidenced by applicants' admissions in examples 1-7 and in Table 2 of the instant specification, set forth in the office action mailed on Jul. 20, 2006, paragraph 8, has been withdrawn in response to the amendments to claims 1, 22, 43, and 64 filed on Sep. 8, 2006, which were entered upon the filing of the RCE. Those amendments to claims 1, 22, 43, and 64 added the limitation that "at the temperature of the fusing process . . . the viscosity of the toner is at least 100 Kpoise at a temperature of from 120 to 200°C" (emphasis added). As discussed in the rejection, Mahabadi teaches that its toner preferably has a melt viscosity of about 20,000 to about 100,000 poise at 100°C and from about 1,000 to about 80,000 poise at 160°C. See Mahabadi at col. 10, lines 16-21. For all the reasons discussed by applicants in their response filed on Jul. 20, 2006, the paragraph bridging pages 13 and 14, in particular "[a]s the temperature of fusing increases, the melt viscosity of the toners in Mahabadi is decreased," Mahabadi does not teach or suggest a toner having a viscosity of at least 100 Kpoise (i.e., 100,000 poise) at a temperature of 120 to 200°C as recited in the instant claims.

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Accordingly, claims 1, 2, 5, 9-17, 19-23, 26, 30-38, 40-44, 47, 51-59, and 61-65 are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janis L. Dote whose telephone number is (571) 272-1382. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Mark Huff, can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry regarding papers not received regarding this communication or earlier communications should be directed to Supervisory Application Examiner Ms. Claudia Sullivan, whose telephone number is (571) 272-1052.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLD

Nov. 8, 2006

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